

**BEFORE THE  
RESPIRATORY CARE BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2085

TATIA H. GARDNER  
613 W. Provential Drive, #B  
Anaheim, CA 92805

Respiratory Care Practitioner License No. 19312

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**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on September 7, 2007.

It is so ORDERED August 29, 2007.

Original signed by:

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LARRY L. RENNER, BS, RRT, RCP, RPFT  
PRESIDENT, RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

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10 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

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13 In the Matter of the Accusation Against:

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613 W. Provential Drive, #B  
Anaheim, CA 92805

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16 Respiratory Care Practitioner  
License No. 19312

17 Respondent.  
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Case No. R-2085

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
20 above-entitled proceedings that the following matters are true:

21 PARTIES

22 1. Stephanie Nunez (Complainant) is the Executive Officer of the  
23 Respiratory Care Board of California. She brought this action solely in her official capacity and  
24 is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of  
25 California, by Douglas Lee, Deputy Attorney General.

26 2. Respondent Tatia H. Gardner (Respondent) is representing herself in this  
27 proceeding and has chosen not to exercise her right to be represented by counsel.

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3. On or about March 7, 1997, the Respiratory Care Board of California issued Respiratory Care Practitioner License No. 19312 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. R-2085 and will expire on March 31, 2008, unless renewed.

## JURISDICTION

4. Accusation No. R-2085 was filed before the Respiratory Care Board (Board), Department of Consumer Affairs, and is currently pending against Respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on Respondent on June 12, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. R-2085 is attached hereto as Exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. R-2085. Respondent has also carefully read, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the complete truth and accuracy of each and every charge and allegation in Accusation No. R-2085.

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1                   9.     Respondent agrees that her Respiratory Care Practitioner License is  
2 subject to discipline and she agrees to be bound by the Respiratory Care Board's (Board)  
3 imposition of discipline as set forth in the Disciplinary Order below.

4                                   CONTINGENCY

5                   10.    This stipulation shall be subject to approval by the Respiratory Care  
6 Board. Respondent understands and agrees that counsel for Complainant and the staff of the  
7 Respiratory Care Board of California may communicate directly with the Board regarding this  
8 stipulation and settlement, without notice to or participation by Respondent. By signing the  
9 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
10 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
11 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
12 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
13 action between the parties, and the Board shall not be disqualified from further action by having  
14 considered this matter.

15                                   OTHER MATTERS

16                   11.    The parties understand and agree that facsimile copies of this Stipulated  
17 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
18 force and effect as the originals.

19                   12.    In consideration of the foregoing admissions and stipulations, the parties  
20 agree that the Board may, without further notice or formal proceeding, issue and enter the  
21 following Disciplinary Order:

22                                   DISCIPLINARY ORDER

23                   IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 19312  
24 issued to Respondent TATIA H. GARDNER is revoked. However, the revocation is stayed and  
25 Respondent is placed on probation for two (2) years on the following terms and conditions.

26                   1.     RESTRICTION OF PRACTICE Respondent may not be employed or  
27 function as a member of a respiratory care management or supervisory staff during the entire  
28 length of probation. This includes lead functions.

1                   2.     OBEY ALL LAWS Respondent shall obey all laws, whether federal,  
2 state, or local. Respondent shall also obey all regulations governing the practice of respiratory  
3 care in California.

4                   Respondent shall notify the Board in writing within 14 days of any incident  
5 resulting in her arrest, or charges filed against, or a citation issued against Respondent.

6                   3.     QUARTERLY REPORTS Respondent shall file quarterly reports of  
7 compliance under penalty of perjury, on forms to be provided to the probation monitor assigned  
8 by the Board. Omission or falsification in any manner of any information on these reports shall  
9 constitute a violation of probation and shall result in the filing of an accusation and/or a petition  
10 to revoke probation against Respondent's respiratory care practitioner license.

11                  Quarterly report forms will be provided by the Board. Respondent is responsible  
12 for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each  
13 year of probation and the entire length of probation as follows:

14                  For the period covering January 1<sup>st</sup> through March 31<sup>st</sup>, reports are to be  
15 completed and submitted between April 1<sup>st</sup> and April 7<sup>th</sup>. For the period covering April 1<sup>st</sup>  
16 through June 30<sup>th</sup>, reports are to be completed and submitted between July 1<sup>st</sup> and July 7<sup>th</sup>. For  
17 the period covering July 1<sup>st</sup> through September 30<sup>th</sup>, reports are to be completed and submitted  
18 between October 1<sup>st</sup> and October 7<sup>th</sup>. For the period covering October 1<sup>st</sup> through December 31<sup>st</sup>,  
19 reports are to be completed and submitted between January 1<sup>st</sup> and January 7<sup>th</sup>.

20                  Failure to submit complete and timely reports shall constitute a violation of  
21 probation.

22                  4.     PROBATION MONITORING PROGRAM Respondent shall comply  
23 with requirements of the Board appointed probation monitoring program, and shall, upon  
24 reasonable request, report to or appear to a local venue as directed.

25                  Respondent shall claim all certified mail issued by the Board, respond to all  
26 notices of reasonable requests timely, and submit Annual Reports, Identification Update reports  
27 or other reports similar in nature, as requested and directed by the Board or its representative.

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1 Respondent is encouraged to contact the Board's Probation Program at any time  
2 she has a question or concern regarding her terms and conditions of probation.

3 Failure to appear for any scheduled meeting or examination, or cooperate with the  
4 requirements of the program, including timely submission of requested information, shall  
5 constitute a violation of probation and will result in the filing of an accusation and/or a petition to  
6 revoke probation against Respondent's respiratory care practitioner license.

7 5. PROBATION MONITORING COSTS All costs incurred for probation  
8 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may  
9 be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms  
10 and conditions may also cause this amount to be increased.

11 All payments for costs are to be sent directly to the Respiratory Care Board and  
12 must be received by the date(s) specified. (Periods of tolling will not toll the probation  
13 monitoring costs incurred.)

14 If Respondent is unable to submit costs for any month, she shall be required  
15 instead to submit an explanation of why she is unable to submit the costs, and the date(s) she will  
16 be able to submit the costs including payment amount(s). Supporting documentation and  
17 evidence of why the Respondent is unable to make such payment(s) must accompany this  
18 submission.

19 Respondent understands that failure to submit costs timely is a violation of  
20 probation and submission of evidence demonstrating financial hardship does not preclude the  
21 Board from pursuing further disciplinary action. However, Respondent understands providing  
22 evidence and supporting documentation of financial hardship may delay further disciplinary  
23 action.

24 In addition to any other disciplinary action taken by the Board, an unrestricted  
25 license will not be issued at the end of the probationary period and the respiratory care  
26 practitioner license will not be renewed, until such time all probation monitoring costs have been  
27 paid.

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1           The filing of bankruptcy by Respondent shall not relieve the Respondent of her  
2 responsibility to reimburse the Board for costs incurred.

3           6.     EMPLOYMENT REQUIREMENT Respondent shall be employed a  
4 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of her  
5 probation period.

6           Respondent may substitute successful completion of a minimum of thirty (30)  
7 additional continuing education hours, beyond that which is required for license renewal, for  
8 each 8 months of employment required. Respondent shall submit proof to the Board of  
9 successful completion of all continuing education requirements. Respondent is responsible for  
10 paying all costs associated with fulfilling this term and condition of probation.

11          7.     NOTICE TO EMPLOYER Respondent shall be required to inform her  
12 employer, and each subsequent employer during the probation period, of the discipline imposed  
13 by this decision by providing her supervisor and director and all subsequent supervisors and  
14 directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in  
15 this matter prior to the beginning of or returning to employment or within 14 days from each  
16 change in a supervisor or director.

17          If Respondent is employed by or through a registry [and is not restricted from  
18 working for a registry], Respondent shall make each hospital or establishment to which she is  
19 sent aware of the discipline imposed by this decision by providing her direct supervisor and  
20 administrator at each hospital or establishment with a copy of this decision, and the Statement(s)  
21 of Issues or Accusation(s) in this matter prior to the beginning of employment. This must be  
22 done each time there is a change in supervisors or administrators.

23          The employer will then inform the Board, in writing, that she is aware of the  
24 discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting  
25 the Board to obtain additional forms, if needed. All reports completed by the employer must be  
26 submitted from the employer directly to the Board.

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Respondent shall execute a release authorizing the Board or any of its representatives to review and obtain copies of all employment records and discuss and inquire of the probationary status with any of Respondent's supervisors or directors.

8. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall notify the Board, and appointed probation monitor, in writing, of any and all changes of employment, location, and address within 14 days of such change. This includes, but is not limited to, applying for employment, termination or resignation from employment, change in employment status, change in supervisors, administrators or directors.

Respondent shall also notify her probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for mailing purposes, however the Respondent must also provide her physical residence address as well.

9. SURRENDER OF LICENSE Following the effective date of this decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, she may request the voluntary surrender of her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether or not to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, within 15 calendar days Respondent shall deliver her wallet and wall certificate to the Board or its designee and she shall no longer practice respiratory care. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a respiratory care license, the application shall be treated as a petition for reinstatement of a revoked license.

10. COST RECOVERY Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be \$569.00 and shall be paid in full directly to the Board, in equal quarterly payments, within 12 months from the effective date of this decision. Cost recovery will not be tolled.

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1 If Respondent is unable to submit costs timely, she shall be required instead to  
2 submit an explanation of why she is unable to submit these costs in part or in entirety, and the  
3 date(s) she will be able to submit the costs including payment amount(s). Supporting  
4 documentation and evidence of why the Respondent is unable to make such payment(s) must  
5 accompany this submission.

6 Respondent understands that failure to submit costs timely is a violation of  
7 probation, and submission of evidence demonstrating financial hardship does not preclude the  
8 Board from pursuing further disciplinary action. However, Respondent understands that  
9 providing evidence and supporting documentation of financial hardship may delay further  
10 disciplinary action.

11 Consideration to financial hardship will not be given should Respondent violate  
12 this term and condition, unless an unexpected AND unavoidable hardship is established from the  
13 date of this order to the date payment(s) is due.

14 The filing of bankruptcy by the Respondent shall not relieve the Respondent of  
15 her responsibility to reimburse the Board for these costs.

16 11. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods  
17 of residency or practice outside California, whether the periods of residency or practice are  
18 temporary or permanent, will toll the probation period, but will not toll the cost recovery  
19 requirement, nor the probation monitoring costs incurred. Travel out of California for more than  
20 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the  
21 Board, in writing, within 14 days, upon her return to California and prior to the commencement  
22 of any employment where representation as a respiratory care practitioner is/was provided.

23 12. VALID LICENSE STATUS Respondent shall maintain a current, active  
24 and valid license for the length of the probation period. Failure to pay all fees and meet  
25 Continuing Education requirements prior to her license expiration date shall constitute a  
26 violation of probation.

27 13. VIOLATION OF PROBATION If Respondent violates any term of the  
28 probation in any respect, the Board, after giving Respondent notice and the opportunity to be

1 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to  
2 revoke probation is filed against Respondent during probation, the Board shall have continuing  
3 jurisdiction and the period of probation shall be extended until the matter is final. No petition for  
4 modification of penalty shall be considered while there is an accusation or petition to revoke  
5 probation or other penalty pending against Respondent.

6 14. COMPLETION OF PROBATION Upon successful completion of  
7 probation, Respondent's license shall be fully restored.

8 ACCEPTANCE

9 I have carefully read this Stipulated Settlement and Disciplinary Order. I  
10 understand the stipulation and the effect it will have on my Respiratory Care Practitioner License.  
11 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
12 intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

13 DATED: 7/10/07.

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16 TATIA H. GARDNER  
17 Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: 7/6/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

THOMAS S. LAZAR  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
DOUGLAS LEE  
Deputy Attorney General  
  
Attorneys for Complainant

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